

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

KARRIE WELLS	§	
Plaintiff(s)	§	
	§	
v.	§	Cause No. 3:11-CV-316
	§	
RETRIEVAL MASTERS CREDITORS	§	
BUREAU, INC. dba	§	
AMERICAN MEDICAL	§	
COLLECTION AGENCY, INC.	§	
	§	
and JOHN and/or JANE DOES 1-10	§	
	§	
Defendant(s)	§	COMPLAINT

JURISDICTION AND VENUE

1. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d).
2. This action arises out of Defendants' violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA).
3. Venue is proper in this District because the acts and transactions occurred here, Plaintiff resides here, and Defendants transact business here.

PARTIES

4. Plaintiff KARRIE WELLS (hereinafter "WELLS") is a natural person who resides here in the City of El Paso, County of El Paso, State of Texas, and is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).
5. Defendant RETRIEVAL MASTERS CREDITORS BUREAU, INC. dba AMERICAN MEDICAL COLLECTION AGENCY, INC. (hereinafter "AMERICAN MEDICAL") is a New York Corporation and collection agency operating from an address of 4 Westchester Plaza, Building 4, Elmsford, NY, 10523. AMERICAN MEDICAL is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6). AMERICAN MEDICAL can be served with process by mailing a copy of same to its Chief Executive Officer, Russell Fuchs, 2269 S. Saw Mill River Rd., Building #3, Elmsford, NY, 10523.
6. Defendant AMERICAN MEDICAL regularly uses the mails and telephones to collect consumer debts originally owed to others.

7. Defendants John and/or Jane Does No. 1-10 are employees of AMERICAN MEDICAL and are collection agents and are “debt collectors” as that term is defined by 15 U.S.C. § 1692a(6).
8. The true names and capacities, whether individual, corporate, associate or otherwise of the Defendants sued herein as JOHN and/or JANE DOES 1 through 10, inclusive, are unknown to Plaintiff, who therefore sues such Defendants by such fictitious names. Plaintiff will seek permission from the court to amend this complaint to show the true names and capacities of such Defendants when the same have been ascertained. Plaintiff is informed and believes that each of the Defendants designated as a John or Jane Doe was in some manner responsible for the occurrences and injuries alleged herein.
9. At all times mentioned herein, each of the Defendants was the agent and employee of the other named Defendants, and in doing the things alleged were acting within the course and scope of such agency and employment, and in doing the acts herein alleged were acting with the consent, permission and authorization of the remaining named Defendants. All actions of each of the defendants were ratified and approved by the other named Defendants.

FACTUAL ALLEGATIONS

10. On or about May 19, 2011, Defendant AMERICAN MEDICAL caused to be mailed Exhibit A to WELLS. Exhibit A is an attempt to collect from WELLS, a consumer obligation allegedly owed to AMERICAN MEDICAL’S client, Laboratory Corporation of America.
11. Upon receipt of Exhibit A, and within 30 days of her receipt of Exhibit A, WELLS caused to be mailed Exhibit B which disputes the validity of the alleged obligation and requests AMERICAN MEDICAL validate said debt.
12. AMERICAN MEDICAL received Exhibit B via certified mail on June 9, 2011.
13. On June 20, 2011, and prior to addressing WELLS dispute and request for validation of the alleged debt, AMERICAN MEDICAL caused to be mailed EXHIBIT C which once again, attempts to collect from WELLS a consumer debt.
14. The debt which Exhibits A and C attempt to collect from WELLS was incurred for personal, family, or household purposes, and as such is a consumer debt as defined in 15 U.S.C.1692a(5) and Texas Finance Code Section 392.101(2).
15. The conduct of Defendants and each of them by continuing attempts to collect on a consumer debt after having been notified said debt was disputed and after Plaintiff had requested validation thereof; and by engaging in conduct, the natural consequence of which is to harass, oppress, or abuse Plaintiff in connection with the collection of a consumer debt is violative of 15 U.S.C 1692d and 1692g(b).

Summary

16. Plaintiff has suffered actual damages as a result of these illegal collection communications in the form of humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment, amongst other negative emotions.

CAUSE OF ACTION

**VIOLATIONS OF THE FAIR
DEBT COLLECTION PRACTICES ACT**

17. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
18. The foregoing acts and omissions of each and every Defendant constitutes multiple violations of the FDCPA including, but not limited to, each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.
19. As a result of each and every one of Defendants' violations of the FDCPA, Plaintiff is entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from each and every Defendant herein.

TRIAL BY JURY

20. Plaintiff is entitled to, and hereby respectfully demands, a trial by jury. US Const. amend. 7. Fed.R.Civ.P. 38.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against each and every Defendant:

- for an award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against each and every Defendant.
- for an award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A) against each and every Defendant.
- for an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against each and every Defendant.
- for an award of actual damages from each and every Defendant for the emotional distress suffered as a result of the FDCPA violations in an amount to be determined at trial;

- for such other and further relief as may be just and proper.

Respectfully submitted,

/s/ Scott A. Vogelmeier

SCOTT A. VOGELMEIER

Attorney for Plaintiff

State Bar No.: 24015139

6006 N. Mesa

Suite 904

El Paso, Texas 79912

(915) 544-3100

(915) 577-0160 Facsimile

Exhibit A

**AMERICAN MEDICAL COLLECTION AGENCY**

4 Westchester Plaza, Building 4
Elmsford, NY 10523

PIN NUMBER: 21451688179

01 A22 4130406

Karrie Wells
4747 Round Rock Dr
El Paso, TX 79924-1007

1-800-365-3638

1-914-345-7125

May 19, 2011

FILE UNDER REVIEW

Dear Karrie Wells:

We have been authorized to contact you regarding your past due account with our client, **Laboratory Corporation of America** for laboratory tests ordered by your physician. Their records indicate that your payment has not been received for the following accounts:

<u>Date of Service</u>	<u>Account Number</u>	<u>Amount Due</u>
08/31/2009	LCS 9243Y4006660	\$14.22
08/31/2009	LCS 9244Q540101A	\$63.17

Your total balance due is \$77.39

Both **FEDERAL AND STATE LAW** provide you with rights related to the collection of this debt, some of which are on the reverse side of this letter.



1794-AMCA-106384-16778489-P; 120396-2-1710; 31347615-1; 1

L1M A22 074

653413

See reverse side for important information.You Owe: **Laboratory Corporation of America**Amount Due: **\$77.39**Date of Service: **SEE ABOVE**Account Number: **MCD 4130406A22**To pay online: www.pay.amcaonline.comCard #: Exp. Date: Amount Signature:

(A service fee of \$4.95 may apply.)



016900 0101

L1M A22 074

KARRIE WELLS
4747 ROUND ROCK DR
EL PASO, TX 79924-1007



AMCA
PO BOX 1235
ELMSFORD, NY 10523-0935



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The disclosures below are required by state or federal law. This is not intended to be a complete statement of all rights consumers may have under state and federal law.

"This is an attempt to collect a debt. Any information obtained will be used for that purpose." This communication is from a debt collector.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days after receiving this notice, that the debt or any portion thereof is disputed, this office will: obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

For California: The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest, or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney, or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov. As required by law, you are hereby notified that a negative credit report reflecting on your credit score may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

State of North Carolina Permit #2087.

New York City Department of Consumer Affairs License Number 0886914

As required by Utah law, you are hereby notified that a negative credit report reflecting on your credit score may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

For Massachusetts:

NOTICE OF IMPORTANT RIGHTS

YOU HAVE THE RIGHT TO MAKE A WRITTEN OR ORAL REQUEST THAT TELEPHONE CALLS REGARDING YOUR DEBT NOT BE MADE TO YOU AT YOUR PLACE OF EMPLOYMENT. ANY SUCH ORAL REQUEST WILL BE VALID FOR ONLY TEN DAYS UNLESS YOU PROVIDE WRITTEN CONFIRMATION OF THE REQUEST POSTMARKED OR DELIVERED WITHIN SEVEN DAYS OF SUCH REQUEST. YOU MAY TERMINATE THIS REQUEST BY WRITING TO THE DEBT COLLECTOR.

▲ Detach along this edge ▲

and return the bottom portion with your check or money order.

Include your account number, name and address on all correspondence.

Thank you for your attention to this matter.

For Colorado:

FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE WWW.COLORADOATTORNEYGENERAL.GOV/CA

A consumer has the right to request in writing that a debt collector or collection agency cease further communication with the consumer. A written request to cease communication will not prohibit the debt collector or collection agency from taking other action authorized by law to collect the debt.

Exhibit B

05/26/11

Karrie Wells
4747 Round Rock Drive
El Paso, Texas 79924

American Medical Collection Agency
4 Westchester Plaza, Building 4
Elmsford, NY 10523

RE: Cause No: MCD 4130406A22

Dear, American Medical Collection Agency,

I am writing in response to your correspondence received on 05/24/11

This is the first I've heard from you or any other company on this matter therefore, in accordance with the Fair Debt Collection Practices Act, Section 809(b): Validating Debts:

(b) If the consumer notifies the debt collector in writing within the thirty-day period described in subsection (a) that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or any copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector.

I respectfully request that you provide me with the following information:

- (1) the amount of the debt;
- (2) the name of the creditor to whom the debt is owed;
- (3) Provide a verification or copy of any judgment (if applicable);
-

Be advised that I am fully aware of my rights under the Fair Debt Collection Practices Act and the Fair Credit Reporting Act. For instance, I know that:

- because I have disputed this debt in writing within 30 days of receipt of your dunning notice, you must obtain verification of the debt or a copy of the judgment against me and mail these items to me at your expense;
- You cannot add interest or fees except those allowed by the original contract or state law.
- you do not have to respond to this dispute but if you do, any attempt to collect this debt without validating it, violates the FDCPA;
- I would also respectfully request a copy of the original signed contract that this citation refers to.

Also be advised that I am keeping very accurate records of all correspondence from you and your company including recording all phone calls and I will not hesitate to report violations of the law to my State Attorney General, the Federal Trade Commission and the Better Business Bureau.

I have disputed this debt; therefore, until validated you know your information concerning this debt is inaccurate. Thus, if you have already reported this debt to any credit-reporting agency (CRA) or Credit Bureau (CB) then, you must immediately inform them of my dispute with this debt. Reporting information that you know to be inaccurate or failing to report information correctly violates the Fair Credit Reporting Act § 1681s-2. Should you pursue a judgment without validating this debt, I will inform the judge and request the case be dismissed based on your failure to comply with the FDCPA.

Finally, if you do not own this debt, I demand that you immediately send a copy of this dispute letter to the original creditor so they are also aware of my dispute with this debt.

This letter was sent certified return receipt with tracking number 70071490000508239283.

Sincerely,

Signature
Karrie Wells

Exhibit C

AMERICAN MEDICAL COLLECTION AGENCY

COLLECTION AGENCY

4 Westchester Plaza Suite 110, Elmsford, NY 10523



000803 0101

02 A22 173 4130406

KARRIE WELLS
4747 ROUND ROCK DR
EL PASO, TX 79924-1007

Pin Number: 21451688179

1-800-365-3638

1-914-345-7125

June 20, 2011

Dear Karrie Wells:

In previous correspondence, we informed you of your obligation to pay the **\$77.39** you owe to our client for the following charges:

<u>Date of Service</u>	<u>Account Number</u>	<u>Amount Due</u>
08/31/2009	LCS 9243Y4006660	\$14.22
08/31/2009	LCS 9244Q540101A	\$63.17

The amount of money involved is **\$77.39**. If you have insurance, we will not accept your claim form. It is your responsibility to make full payment. Any insurance claim is your responsibility to negotiate with your carrier. Mail your payment to us with the bottom of this letter.

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See reverse side for important information.

Detach and return this portion with payment using enclosed envelope

653436

Amount Due: \$77.39To pay online: www.pay.amcaonline.com
☐ VISA ☐ MASTERCARD ☐ DISCOVER
Card #: Exp. Date: Amount: Signature:

(A service fee of \$4.95 may apply.)

L2M A22 074

AMCA
PO BOX 1235
ELMSFORD, NY 10523-0935

You Owe:

Laboratory Corporation of America

Date of Service: SEE ABOVE

Account Number: MCD 4130406A22

Pin Number: 21451688179

Name: Karrie Wells

Street Address: 4747 Round Rock Dr

City, State Zip: El Paso, TX 79924-1007

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CREDIT AT RISK CREDIT AT RISK CREDIT AT RISK

"This is an attempt to collect a debt. Any information obtained will be used for that purpose."

This communication is from a debt collector.

New York City Department of Consumer Affairs
License Number 0886914.

State of North Carolina Permit #2087.

▲ Detach along this edge ▲

and return the bottom portion with your check or money order.
Include your account number, name and address on all correspondence.

Thank you for your attention to this matter.